



LOUISIANA PUBLIC DEFENDER BOARD MEMO

To: The Board
From: Jean M. Faria
Re: Report of the State Public Defender
Date: August 20, 2009

STAFFING AND ADMINISTRATION

Roger Harris, General Counsel joined the staff on August 3, 2009. He has been in private practice for ten years before which he was General Counsel for seven years to Legislative Auditor Dan Kyle.

Natashia Carter is our new accountant III. She has a bachelor of science degree in business and accounting and comes to us after several years in the Department of Economic Development.

Kim Gueho, is a paralegal who will be supporting Julie Kilborn and Roger Harris. She came to us from Civil Service. For the majority of her professional career she has been a legal assistant/paralegal with Kean Miller, a Baton Rouge law firm.

At its last meeting the Board authorized the creation of five new positions: four administrative support positions and the creation of a capital case coordinator. We currently do not have authorization for more than sixteen positions. Nor do we have funds budgeted for additional staff. The earliest we could hire on staff is the start of FY 2011.

As John and I spend hours every week serving the capital community the new capital position is critical. To assist us in the creation of the capital coordinator position, several of our national partners are meeting with staff on September 18, 2009 to develop the position and do some long term strategic planning.

The expansion to the third floor at our current location will occur on the first week in September. For the first three days of the week communication with the office will be sporadic. Use our office cell phone numbers if you need us.

The staff training took place on August 6 and 7. It was well received by staff who learned a great deal about themselves and each other. The presenters helped staff understand the role of a central office and how to look at problems from multiple perspectives. Team building and various work styles were explored.

The Board/Staff training will be held on August 28 and 29, 2009 in Baton Rouge.

LITIGATION

Julie and John attended the status conference in *Anderson v. State* that was held on June 26th before Judge Caldwell in the 19th JDC. A scheduling order was created by the parties' counsel following the conference.

CAPITAL GUIDELINES

A Discussion Paper on Capital Guidelines was presented to the Louisiana State Bar Association Right to Counsel Committee on September 1, 2009. We have shared copies of the discussion paper and the capital guidelines with the Supreme Court, the Louisiana District Judges Association and the Louisiana District Attorneys Association as well as all of the District Defenders.

I visited briefly with Judge John Conery from the 16th Judicial District when I gave him his copy of the discussion paper and guidelines. He has been training district judges on how to try capital cases and he has shared the guidelines with the judges who serve with him as trainers.

THE DISTRICTS

The District Defender Advisory Council (DDAC) met on August 10, 2009 to discuss their respective Continuity of Operations Plans (COOP), the Preliminary Hearing Project, C.Cr.P. Art. 893 and 894 hearings, and the draft contract with the District Defenders. Due to caseload standards accepted by the previous boards, the District Defenders are concerned about their ability to fulfill the terms of the contract. We are continuing our discussions on the contract.

As indicated in your materials we have made two additional Ethics Board requests for opinions. We have had a district defender request an opinion on whether he can pay rent to a relative who purchased a one half interest in the building housing the public defender office. The district defender entered the lease on the building before his relative purchased his interest in the building. I was asked whether a district defender could pay 2/3 of his office overhead from public defender funds when he owned the building which housed the local office. That request was also sent on to the Ethics Board.

We will provide the defenders with the date and time of the Ethics Board hearings. There are a number of defenders who may be affected by these opinions.

We are following up on the implementation of the Client Complaint Policy, approved by the Board at its May 28th meeting. The policy was circulated to District Defenders with a request for signed acknowledgment of policies and conditions of circulation their office. We are checking on compliance with the policy with both district defenders and the contract programs.

JUVENILE PROJECTS

The first two LPDB sponsored juvenile trainings, supported by the National Juvenile Defender Center were held earlier this month in Calcasieu and Ouachita Parishes. National experts participated in the training and the evaluations from the participants were outstanding. Many thanks to the staff for presenting our first trainings solely devoted to the juvenile defenders. Everyone on staff had a role to play in making these trainings go off without a hitch.

BUDGET UPDATE

The end of the fiscal year carries with it an extraordinary number of budgetary and financial requirements which are very time consuming.

Marianne and Julie have completed the first budget training with the District Defenders and their support staff on August 11, 2009. Two additional trainings are scheduled for September 2 and 3 in Alexandria and Ruston respectively. Good discussions and questions have arisen during the training. These discussions are raising our awareness as to the number of budget and policy issues which staff and the board need to address.

Marianne completed her second programmatic review of the financial records and internal control procedures of one of the capital programs. She evaluated the Capital Assistance Project of Louisiana (CAPOLA) in Shreveport on July 28, 2009.

DATABASE

Erik Stilling has developed auto-prompting “dormancy” status in the database which changes cases more than 6 months with no database activity to “dormant” and not considered an open case until the attorney manually changes the status. This system automatically notifies (via email and pop-up messages upon logging in to the database) the attorneys, their chief and the state compliance officer of these dormant cases and requests notation on why no activity has occurred.

FIELD MEETINGS AND SITE VISITS

Field Meetings:

25th JDC: Heather Hall has been providing significant time and support to the district defender in the development of the community defender program in Plaquemines Parish.

34th JDC: Frank Neuner, Judge Burns, Julie Kilborn, Tony Champagne and I, went to Chalmette in the 34th to meet with the district judges, president of the local bar, the district defender and the district attorney to discuss compliance issues. 7/1/09

41st JDC: John Di Giulio has made weekly if not biweekly trips to New Orleans to meet with the judiciary and the defenders and the district attorney. I have made three trips to New Orleans to meet with the defenders. Heather Hall has been monitoring and providing support to the Orleans Public Defenders’ Defender Services Program.

TRAINING

Julie, Erik, and Sean have met with almost half of the districts to do training for the districtPDO database. All remaining districts have been scheduled and they should complete the database trainings in the various districts by October 31st.

The juvenile training, with the assistance of the National Juvenile Defender, has been held in two districts, the 14th (on August 13th) and the 4th (on August 14th). Two more juvenile trainings will be scheduled in the near future.

A series of professionalism trainings with the Orleans Public Defender office has begun. Part I of the series was held at the OPD office on August 26th. Jim Boren, Judge Calvin Johnson, and John Di Giulio were the faculty for this first training series. Part II will be scheduled in the next few months.

A voir dire training was held in the 21st (Livingston, St. Helena, Tangipahoa Parishes) on August 21st for felony defenders. The topics covered the basics of jury selection, including tips on how defense counsel might discuss sensitive issues with potential jurors. Rebecca Hudsmith, Carla Boose, Michele Fournet, and Jim Boren were the faculty for this training.

From July 31 – August 3, Julie attended the Southern Public Defender Training Center, a new attorney litigation skills based course in Birmingham, AL where she participated as a faculty member.

Budget Training for the District Defenders is underway. Marianne conducted a three-hour presentation in Baton Rouge on August 11th where she explained the annual budget and monthly reporting requirements to the District Defenders and their bookkeeping staff. Two more budget trainings are scheduled for September 2nd (Alexandria) and September 3rd (Ruston). Additionally, two Employment and Labor Law trainings have been scheduled for the District Defenders for September 9th (Baton Rouge) and 16th (Alexandria). Mark Falcon will present the employment law trainings.

As part of the Preliminary Hearing Project, six training sites have been scheduled for a two-hour refresher on preliminary examinations. The locations scheduled so far are the 27th (St. Landry / September 14th); 36th (Beauregard / September 30th); 4th (Ouachita / October 9th); 9th (Rapides / October 15th); 14th (Calcasieu / October 29th); and 26th (Bossier, Webster / November 9th). Additional sites will soon be scheduled through early spring.

GENERAL

Our use of editorial boards and face to face meetings with district attorneys to discuss the effect of capital cases on the public defender system has drawn a national audience among capital defenders. The Legal Defense Fund invited me to train at Airlie Conference Center on July 11, 2009 regarding our model.

After a year and a half of work on the Eight Guidelines of Public Defense Related to Excessive Workloads, they passed through the ABA House of Delegates earlier this month. The Eight Guidelines are very relevant to the challenges our defenders are facing in the field. A copy of the guidelines is attached to this report.